

Cork County Council – v- the Minister for <sup>1</sup>Communications, Energy and Natural Resources and the Attorney General (High Court record no. 2007-5178-P)

Paul Clune, Solicitor for Cork CC commenced legal proceedings against this Department seeking to reclaim High Court costs incurred by them in the case of [REDACTED] v- Colum Harrington, Bere Island Ferries Ltd, Cork CC, the Minister for Marine and the AG (Circuit Court record no. 3200/1995). [REDACTED] had claimed for the loss of [REDACTED] and [REDACTED] as a result of the Castletownbere ferry tragedy circa 1994. On 7 July 1997, Cork Circuit Court found in favour of [REDACTED] and awarded damages of £25,000 (€31,743) plus costs for the loss of [REDACTED]. Subsequently, a settlement was reached in the sum of £140,000 (€177,763) plus costs, which was paid out by the State.

The State took a successful Appeal to the High Court, against the Circuit Court decision where the Judge ruled that liability for the accident rested on Colm Harrington and Bere Island Ferries jointly and the Minister was released from liability. The High Court Order also required the Minister to pay [REDACTED] costs. The Department paid these legal costs of €132,116 in May 2004. [REDACTED]

The proceedings by Cork CC stem from a dispute between the State and Cork CC, where the latter claim a breach of agreement to pay both their Circuit and High Court costs incurred in the case. The amount being claimed is €81,806.36 plus interest; this amounted to circa €143,000 in 2009. [REDACTED]

[REDACTED] In reply to the Claim the State offered to cover the basic figure of €81,806.36 and did not agree to take responsibility for the interest.

---

<sup>1</sup> Functions transferred to Department of Transport in 2006

Following correspondence between AGs, CSSO and Clune solicitors the latter refused to settle and served a Statement of Claim in April 2008. The Department's Legal Advisor in consultation with AGs made further attempts to seek settlement throughout 2008. In parallel with lodging the Department's Notice for Particulars in response to the Claim, he issued a *without prejudice* letter to Clune solicitors indicating willingness to enter into negotiations. This offer of negotiation was rejected by return in August 2008.

In April 2009 the CSSO received a request from Clune Solicitors to lodge a Defence within 21 days, otherwise they would issue a Motion for Judgement against the State. The CSSO had been instructed to set up a Settlement negotiation and they had written to Clune solicitors who, while responding to the communication, were somewhat vague and non-committal regarding a meeting in their response to the CSSO of 25th June 2009.

[REDACTED]

[REDACTED]

In January 2010 the Secretary General directed that the Department pursue opportunities to avail of mediation rather than legal actions, where appropriate, in existing legal actions. He agreed that this litigation involving Cork Co Co is an appropriate case to explore the possibility of using mediation to reach a cost effective and expedient resolution.

[REDACTED]